

Permit No.: GP-41

Effective Date: June 18, 1997  
Expiration Date: May 15, 2001

Name of Applicant: General Public, State of Connecticut

AMENDMENT TO  
DEPARTMENT OF THE ARMY GENERAL PERMIT  
STATE OF CONNECTICUT

The Connecticut Programmatic General Permit (CT PGP) has been in use in the New England District since May 15, 1996. Based on experience and after coordination with the State of Connecticut, Department of Environmental Protection and the U. S. Environmental Protection Agency, (EPA), U. S. Fish and Wildlife Service, (F&WS) and the National Marine Fisheries Service, (NMFS), the CT PGP is hereby modified as follows:

**Category II Federal/State Screening Procedures**

The CT DEP, OLISP, will send copies of state permits and Certificates of Permission to the Corps of Engineers every three weeks for determination of eligibility under either Category I or Category II. If a project meets Category I, no further action is required and the Corps will keep a copy of the State authorization on file. For projects that may be eligible for Category II, the Corps will fill out a Determination of Eligibility Checklist and make copies for distribution at the next screening meeting with the Federal resource agencies (EPA F&WS and NMFS).

At the screening meeting, the Corps will determine independently, or at the request of the Federal Resource Agencies, if Category II projects: (1) require additional information; (2) are eligible under the PGP as proposed; (3) are ineligible under the terms and/or conditions of this PGP; (4) will require project modification, mitigation or other special conditions to minimize impacts and protect the aquatic environment to be eligible for the PGP; or (5) require individual permit review irrespective of whether the terms and conditions of this PGP are met, based on concerns for the aquatic environment or any other factor of the public interest.

All Category II projects must receive written approval from the Corps before work can proceed. This written approval will be in the form of a PGP authorization letter sent by Corps.

If the proposed activities are determined not to be eligible for the PGP, the Corps will contact the applicant to discuss the concerns raised. If the applicant is unable to resolve the concerns, the Corps, either independently or at the request of one of the Federal Resource Agencies, will require an individual permit for the project. The applicant will be notified of this in writing and will be provided information about submitting the necessary application materials.

**All PGP eligibility determinations will be made within 30 days from the date of the screening meeting.**

Any comments from the Federal Resource Agencies to the Corps may be verbal initially, and must be made within 10 working days of the screening meeting. **The verbal objection shall be followed within an additional 10 working days by a written response, signed by the Federal agency field supervisor or Branch Chief (as appropriate),** documenting the resource or species within their area of expertise that could be impacted by the project and describing the impacts that either individually or cumulatively will be more than minimal. **The Corps will require individual permit review if any one of the agencies expresses and identifies a concern related to the aquatic environment within their area of expertise and requests an individual permit review according to the procedures above.**

Conditions:

6. Historic Properties. Any activity authorized by this PGP shall comply with Section 106 of the National Historic Preservation Act. Information on the location and existence of historic resources can be obtained from the Connecticut Historical Commission and the National Register of Historic Places.

Applicants with projects which will undergo the screening process shall submit a copy of their application materials to the State Historic Preservation Officer (SHPO), Connecticut Historical Commission, 59 South Prospect Street, Hartford, CT 06106, to be reviewed for the presence of historic/archaeological resources in the permit area that may be affected by the proposed work. The Corps will then be notified by the SHPO if there are State concerns that the proposed work will have an effect on historic resources. The applicant should include with their application, either a copy of their cover letter, or a statement of having sent their application materials to the SHPO.

If the permittee, during construction of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the area subject to Corps jurisdiction that might be eligible for listing in the National Register of Historic Places, he/she shall stop work and immediately notify the District Engineer and the SHPO.

16. Waterway Crossings. (d) For projects that otherwise meet the terms of Category I, unconfined in-stream construction work shall be conducted during the low flow period of July 1 - October 1 in any year; projects that are not be conducted during that time period are ineligible for Category I and shall be screened pursuant to Category II, regardless of the waterway and wetland fill and/or impact area.

## DEFINITIONS OF CATEGORIES

### **Category I, A. Inland Waters and Wetlands (Waters of the U.S.) (a) New Fill/Excavation Discharges**

Less than 5,000 s.f. inland waterway and/or wetland fill and secondary impacts (e.g. areas drained, flooded, or cleared). Impact area includes all temporary & permanent fill and excavation discharges. Unconfined in-stream work, including the construction of cofferdam structures/fills is limited to July 1 through September 30. Dams, dikes or water diversion fills must be screened in Category II.

### **Category II, B. Tidal Waters and Navigable Waters, Section (c) Dredging**

Maintenance dredging greater than 1,000 c.y., new dredging up to 10,000 c.y., or projects that do not meet Category I. This category allows for either upland or open water disposal or beach nourishment (above mean high water) provided material to be dredged is determined suitable for disposal at the requested location by the Corps.

## EXCLUSIONS

(c) Projects involving widenings, expansions and enhancement that impact between 1-3 acres of wetlands; or projects that impact 1-3 acres of degraded or low value wetlands that have been assessed as such by either CT DEP or COE personnel, may be approved under Category II, subject to Federal Screening.

**All other Conditions of the original CT PGP remain in full force and effect.**

\_\_\_\_\_  
DISTRICT ENGINEER

\_\_\_\_\_  
DATE

**Permit No: GP-41**

**Effective Date: May 15, 1996**

**Expiration Date: May 15, 2001**

**Name of Applicant :** General Public-State of Connecticut & Lands Located Within the Exterior Boundaries of an Indian Reservation.

**DEPARTMENT OF THE ARMY  
PROGRAMMATIC GENERAL PERMIT  
STATE OF CONNECTICUT  
&  
Lands Located Within the Exterior  
Boundaries of an Indian Reservation<sup>1</sup>**

The New England Division of the U.S. Army Corps of Engineers hereby issues a programmatic general permit (PGP) that expedites review of minimal impact work in coastal and inland waters and wetlands within the State of Connecticut and lands located within the exterior boundaries of an Indian reservation. Activities with minimal impacts, as specified by the terms and conditions of this PGP and on the attached DEFINITION OF CATEGORIES sheets, are either **Category I** (eligible without screening, non-reporting), or **Category II** (may be eligible, determination of eligibility made during a review/screening meeting by the Corps, Federal resource agencies, and the Connecticut Department of Environmental Protection). In both cases, the PGP is valid only after the applicant receives all of the necessary state and local approvals listed under the Procedures section below. The Corps individual permit review process and activities exempt from Corps jurisdiction are not affected by this PGP.

**ACTIVITIES COVERED:** work and structures identified in the attached Definition of Categories sheets that are located in, or that affect, navigable waters of the United States (regulated by the Corps under Section 10 of the Rivers and Harbors Act of 1899), and the discharge of dredged or fill material into waters of the United States, including wetlands (regulated by the Corps under Section 404 of the Clean Water Act).

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<sup>1</sup> Indian reservation lands are considered a sovereign nation, and are therefore acknowledged separately from the State of Connecticut for purposes of this PGP

## PROCEDURES

### A. State and Local Approvals

When any of the following state and local approvals are required for activities authorized pursuant to the PGP, such approvals must be obtained in order for this PGP authorization to be valid. (Refer also to PGP Condition No. 1 on page 8)

*(1) Inland Wetlands and Watercourses Permit under the Inland Wetlands and Watercourses Act (Connecticut General Statutes (CGS) Section 22a-36 to 22a-45(a), inclusive);*

*(2) Water Diversion Permit under the Connecticut Water Diversion Policy Act (CGS Section 22a-365 to 22a-378(a), inclusive);*

*(3) Stream Channel Encroachment Lines Permit (CGS Section 22a-342 to 22a-349(a), inclusive);*

*(4) Dam Safety Construction Permit (CGS Section 22a-401 to 22a-411, inclusive);*

*(5) Structures, Dredging and Filling Permit (CGS Section 22a-359 to 22a-363f, inclusive);*

*(6) Tidal Wetlands Permit under the Tidal Wetlands Act (CGS Section 22a-28 to 22a-35a inclusive);*

### **State Administered Federal Laws:**

*(7) Water Quality Certification (WQC) under Section 401 of the Federal Clean Water Act (33 U.S.C. Sec. 1341).*

Section 401(a)(1) of the Clean Water Act requires applicants to obtain a water quality certification or waiver from the state water pollution control agency (CT DEP, or EPA for Indian reservation lands) to discharge dredged or fill materials into waters of the U.S.

On April 24, 1996 CT DEP granted WQC for activities in **inland waters and wetlands** for **Category I** activities and conditionally granted WQC for **Category II** activities, provided 1) the applicant obtains the required authorizations listed under PGP Section A Items (1-4), and, 2) CT DEP finds through the Category II federal/state screening meeting that the activity is reasonably likely to have minimal or no impact on water quality.

The Corps presumed that EPA waived WQC for Category I and II activities that are located on lands within the exterior boundaries of an Indian reservation.

As a result, a separate WQC application is not required for these activities unless the applicant is notified by the Corps that individual permit review is required. The Corps PGP authorization letter will document CT DEP's WQC determination for Category II activities in inland waters and wetlands.

For **Category I and II** activities in **tidal, coastal and navigable waters**, CT DEP conditionally granted WQC by letter of April 24, 1996. The conditional granting is subject to, 1) the applicant obtaining the appropriate Section A Approvals (5) and (6), and 2) the Commissioners finding that the discharge is likely to have minimal or no impacts on water quality. The PGP does not authorize individual activities unless CT DEP Office of Long Island Sound Programs (OLISP) authorization is granted. CT DEP authorizations for individual activities in tidal, coastal and navigable waters include a substantive evaluation by OLISP regarding consistency with state water quality standards. As a result, a WQC is inherent in the OLISP permit process under Section A approvals numbers (5) and (6), and a separate WQC application is not required for these activities.

*(8) Coastal Zone Management Consistency (CZM) Concurrence under Sec. 307 of the Federal Coastal Zone Management Act of 1972, as amended.*

Section 307(c) of the Coastal Zone Management Act of 1972, as amended, requires applicants to obtain a certification from CT DEP that the activity complies with the state's coastal zone management program for activities affecting a state's coastal area.<sup>2</sup>

CT DEP authorizations for individual activities in the state's coastal area include a substantive evaluation by the Office of Long Island Sound Program (OLISP) regarding consistency concurrence with the coastal zone management program.

As a result, CZM consistency concurrence is inherent in the OLISP permit process under Section A (5) and (6) of this PGP. A separate application is not required for these activities.

## **B. Corps Authorizations**

PGP authorizations consist of both Category I and II type activities. Eligibility, application and screening procedures described below for these categories are contingent on State or Tribal wetlands programs and procedures currently in place. The Corps must acknowledge a Tribe's wetlands program as adequate to ensure minimal impacts under Category I however, before a Tribe is eligible for this Category. If there are changes in any of these programs that may affect the terms and conditions of the PGP (prior to its expiration date), then modifications to this PGP may be necessary. The Corps will determine this in coordination with the Federal resource agencies at such time any changes occur.

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<sup>2</sup> The state's Coastal Area is statutorily defined as: all lands and waters within the municipalities of Greenwich, Stamford, Darien, Norwalk, Westport, Fairfield, Bridgeport, Stratford, Shelton, Milford, Borough of Woodmont, Orange, West Haven, New Haven, Hamden, North Haven, East Haven, Branford, Guilford, Madison, Clinton, Westbrook, Deep River, Chester, Essex, Borough of Fenwick, Old Saybrook, Lyme, Old Lyme, East Lyme, Waterford, New London, Montville, Norwich, Preston, Ledyard, Groton (City, Town and Long Point Borough) and Stonington (Town and Borough) [Section 22a-94(a)CGS].

## **CATEGORY I** **(Non-reporting/Minimal Impacts)**

**Eligibility** - Activities in Connecticut and lands located within the exterior boundaries of an Indian reservation that are subject to Corps jurisdiction and meet the definition of Category I on the Definition of Categories sheets (attached), and all of this PGP's other conditions, do not require separate application to the Corps.

***Category I is non-reporting for activities located on lands within the exterior boundaries of an Indian reservation<sup>3</sup> or activities that are regulated by the CT DEP (Office of Long Island Sound Programs/Inland Water Resources Division) or the Connecticut municipal inland wetlands agencies. Category II screening is required if the above does not apply.***

Note that the review thresholds under Category I apply to single and complete projects only (see condition 5 on page 9). Also note that Category I does not apply to projects occurring in a component of, or within 0.25 mile up or downstream of the main stem or tributaries of a river segment of the National Wild and Scenic River System (see condition 9, and page 15, for the listed river in Connecticut). There are also restrictions on other national lands or concerns which must be met in order for projects to be eligible for authorization under this PGP. Refer to special conditions 6-11 under Section C below.

Although Category I projects are non-reporting, the Corps reserves the right to require individual permit review if there are concerns for the aquatic environment or any other factor of the public interest that may come to our attention (See condition 4 on Discretionary Authority).

## **CATEGORY II** **(Screening/Minimal Impacts)**

**Eligibility** - Activities in Connecticut and lands located within the exterior boundaries of an Indian reservation that are subject to Corps jurisdiction and appear to meet the definition of Category II on the Definition of Categories sheets (attached), will be reviewed at Federal/state joint screening meetings to determine whether such activities may be eligible under this PGP. The Corps, Federal resource agencies, and CT DEP will comprise the review team. The Federal resource agencies include the US Fish and Wildlife Service (FWS), the US Environmental Protection Agency (EPA) and the National Marine Fisheries Service (NMFS). *CT DEP will comment on lands located within the exterior boundaries of an Indian reservation only when they have jurisdiction under federal law.* To be eligible, an activity must meet all the terms and conditions of

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<sup>3</sup> A tribes wetlands rules and regulations must be acknowledged by the Corps as adequate to ensure minimal impacts to the aquatic resources. Category II screening is required otherwise.

the PGP and result in minimal impacts to the aquatic environment. Compensatory mitigation may be required to minimize impacts to a minimal level. The Corps will contact the applicant to discuss concerns raised if a project is not eligible. Note that review thresholds under Category II apply to single and complete projects only (see condition 5).

**Category II projects may not proceed until written notification is received from the Corps.**

Category II projects which occur in a component of, or within 0.25 mile up or downstream of the main stem or tributaries of, a river segment of the National Wild and Scenic River System will be coordinated with the National Park Service (see condition 9, and page 15 for the listed river in Connecticut). There are also restrictions on other national lands or concerns which must be met in order for projects to be eligible for authorization under this PGP. Refer to special conditions 6-11 under Section C below.

**Category II Application Procedures** -There will be two different application filing procedures for Category II activities. If the Category II activity is regulated by Office of Long Island Sound Programs (OLISP), the Corps will review the states application information for PGP eligibility at the federal/state screening meeting. If the Category II activity is not regulated by OLISP, the applicant must send the standard Corps ENG Form 4345 to the Corps. This information will also be reviewed at the federal/state screening meeting. Refer to descriptions below for details.

**Category II Activities regulated under the CT DEP's Office of Long Island Sound Programs (OLISP).**

State applications for these projects will be screened by the Corps, Federal resource agencies, and CT DEP. State applications are for permits affecting tidal wetlands and tidal, coastal and navigable waters pursuant to the authorities listed under numbers 5, 6, 7, and 8 of Section A of this PGP. The OLISP will be the lead permitting agency for activities proposed within Corps jurisdiction that require state coastal permit applications. As a result, the applicant will normally not be interacting with the Corps and a separate application will not be required.

If the activity is eligible for the PGP as determined from the Federal/state screening meeting (refer to screening procedures below), a Corps PGP authorization will be attached to the state permit. The screening meetings will most always occur during the state's tentative determination public notice period. If the activity is not eligible, the Corps will notify the applicant in writing prior to any state authorization. In either case, the Corps will notify the applicant within 45 days of the Federal/state screening meeting.<sup>4</sup>

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<sup>4</sup> A 45 day time frame is necessary to encompass the OLISP permit program timeframe. Typically applicants will be notified within 30 days of the screening meeting regarding PGP eligibility, and in less time if a project is clearly not eligible for the PGP.



To avoid delays in the PGP process, applicants must ensure that the supplemental information required by the Corps (i.e verification of federal wetland delineations, dredging project procedures, and documentation of coordination with the Connecticut Historical Commission) is submitted with the state application. This required information will be listed in an attachment to the state application.

***Category II activities NOT regulated under the Office of Long Island Sound Programs. (e.g. inland wetlands/watercourses projects with fill discharges, and activities exempt from state review such as Metro North rail , or activities located on lands within the exterior boundaries of an Indian reservation within a coastal area).***

A separate Corps application form (ENG Form 4345) is required for these activities. Applicants must submit a copy of the application to the Corps of Engineers, New England District, Regulatory Branch, 696 Virginia Road, Concord, MA 01742-2751. Telephone number 1-978-318-8335, or toll free from Connecticut at 1-800-343-4789, or 1-800-362-4367 (within Massachusetts).

The Corps will provide a copy of the application to the CT DEP (Inland Water Resources Division for fill activities and OLISP for state exempt and Indian land activities in a coastal area). CT DEP will review the activity for compliance with state water quality standards (fill activities), and CZM consistency with the state's coastal program (coastal area projects) that are not already being reviewed by OLISP under the authorities listed in Section A (5, 6 & 7) of this PGP. If the CT DEP identifies concerns at the federal/state screening meeting regarding consistency with state requirements that cannot be addressed through project modification or special conditions, the Corps will require an individual permit review.

**The Corps will notify the applicant in writing regarding PGP eligibility within 45 days of the federal/state screening meeting.<sup>5</sup>**

***Note, it is very important that applicants supplement the ENG 4345 Application Form with appropriate and adequate drawings that accurately illustrate the work described. All drawings should be submitted on 8-1/2 x 11 inch white paper and include a vicinity map, plan view, and elevation/cross section views of the activity. Since drawings must be reproduced, heavy dark lines should be used with no color shading. All jurisdictional boundaries must be clearly delineated. Refer to the Corps New England Divisions "Guide for Permit Applicants" booklet for a complete description of sample drawing requirements. Failure to submit the appropriate information could result in permit processing delays.***

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<sup>5</sup> A 45 day time frame is necessary to encompass the OLISP permit time frames. Typically applicants will be notified within 30 days of the screening meeting regarding PGP eligibility, and in less time if a project is clearly not eligible for the PGP.

***In addition, the applicant shall supplement ENG Form 4345 with a statement that they have notified and coordinated the project with the Connecticut Historical Commission so that the project can be reviewed for the presence of historic/archaeological resources in the project area that may be affected by the proposed activities.***

**Category II Federal/State Screening Procedures** - The joint screening meetings will occur for all Category II activities. Screening meetings will be held regularly either at the Corps, CT DEP or CT DOT offices. Representatives from the CT DEP, the Corps, the EPA, the FWS, and the NMFS will have the opportunity to attend and comment. The Corps will require individual permit review if any one of the agencies expresses and identifies a concern related to the aquatic environment within their area of expertise within the specified time frame. *Note, CT DEP will comment on activities located on lands within the exterior boundaries of an Indian reservation only when they have jurisdiction under federal law.*

At the Federal/state screening meeting, the Corps will determine independently, or at the request of the CT DEP or federal resource agencies if Category II applications: (1) require additional information (see above); (2) are eligible under the PGP as proposed; (3) are ineligible under the terms and/or conditions of this PGP; (4) will require project modification, mitigation or other special conditions to minimize impacts and protect the aquatic environment to be eligible for this PGP; or 5) require individual permit review irrespective of whether the terms and conditions of this PGP are met, based on concerns for the aquatic environment or any other factor of the public interest (see Condition 4 on Discretionary Authority).

All Category II projects must receive written approval from the Corps before work can proceed. This written approval will either exist as a Corps PGP authorization letter attached to the CT DEP OLISP permit, or a separate PGP authorization letter from the Corps.

If the proposed activities are not eligible, the Corps will contact the applicant to discuss the concerns raised. If the applicant is unable to resolve the concerns, the Corps, independently or at the request of the CT DEP or one of the Federal Resource Agencies, will require an individual permit for the activities. The applicant will be notified of this in writing and will be provided information about submitting the necessary application materials.

**All PGP eligibility determinations will be made within 45 days from the date of the Federal/state screening meeting.<sup>6</sup>**

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<sup>6</sup> A 45 day time frame is necessary to encompass the OLISP permit time frames. Typically applicants will be notified within 30 days of the screening meeting regarding PGP eligibility, and in less time if a project is clearly not eligible for the PGP.

The comments from the CT DEP and/or the Federal resource agencies to the Corps may be verbal initially, and must be made within 10 working days of the screening meeting. These comments must be confirmed in writing within 10 calendar days of the verbal response if the CT DEP and/or Resource Agency(ies) expresses a concern whereby the Corps will require an individual permit. The Federal resource agency's comments must be clearly identified and reflect a concern related to the aquatic environment within their area of expertise, state the species or resources that could be impacted by the activities, and describe the impacts that either individually or cumulatively will be more than minimal.

*Note: Activities regulated by CT DEP OLISP (activities in tidal wetlands and tidal, coastal and navigable waters), will be reviewed by the Corps during the OLISP tentative determination public notice comment period. If the Corps and Federal resource agencies determine through the screening process that the project complies with the terms and conditions of the PGP, including any state imposed conditions, the activity can be authorized by the PGP. CT DEP will attach the Corps PGP authorization to the state permit. If the Corps determines that impacts are more than minimal and cannot be resolved easily with project or permit modifications, then the Corps will contact the applicant within the OLISP tentative determination public notice comment period that an individual permit is required. It is expected in most cases however, that the OLISP review and conditions will be adequate to meet the terms and conditions of the PGP, for work within Category II limits.*

## **INDIVIDUAL PERMIT**

Work that is in the INDIVIDUAL PERMIT category on the attached DEFINITION OF CATEGORIES sheets, or that does not meet the terms and conditions of this PGP, will require an application for an individual permit from the Corps of Engineers (see 33 CFR Part 325.1). The screening procedures outlined above will only serve to delay individual permit review in such cases. The appropriate application materials (including the Corps application form) should be submitted by the applicant at the earliest possible date. General information and application forms can be obtained by calling the Corps New England Division at 1-800-343-4789 (outside Massachusetts) and 1-800-362-4367 (within Massachusetts). Individual WQC and/or CZM consistency concurrence will be required from the CT DEP.

### **C. Programmatic General Permit Conditions:**

***The following conditions apply to activities authorized under this PGP, including all Category I (non-reporting) and Category II (screening) activities:***

#### **GENERAL REQUIREMENTS:**

**1. Other Permits.** Authorization under this PGP does not obviate the need to obtain other Federal, state, or local authorizations required by law.

2. Applicability of this PGP shall be evaluated with reference to Federal jurisdictional boundaries. Applicants are responsible for ensuring that the boundaries used satisfy the federal criteria defined at Title 33 CFR 328-329.

3. *Minimal Effects.* Projects authorized by this PGP shall have minimal individual and cumulative adverse environmental impacts as determined by the Corps.

4. *Discretionary Authority.* Notwithstanding compliance with the terms and conditions of this PGP, the Corps of Engineers retains discretionary authority to require an application for an individual permit for any project based on concerns for the aquatic environment or for any other factor of the public interest. This authority is invoked on a case-by-case basis whenever the Corps determines that the potential consequences of the proposed activity warrant individual review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal, or if there is a special resource or concern associated with a particular project that is not already covered by the remaining conditions of the PGP and that warrants greater review. Whenever the Corps notifies an applicant that an individual permit may be required, authorization under this PGP is void, and no work may be conducted until the individual Corps permit is obtained, or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under this PGP.

5. *Single and Complete Projects.* This PGP shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single project shall be treated together as constituting one single and complete project. All planned phases of multi-phased projects shall be treated together as constituting one single and complete project. This PGP shall not be used for any activity that is part of an overall project for which an individual permit is required. Note that modifications to State permits do not constitute a separate project.

#### NATIONAL CONCERNS:

6. *Historic Properties.* Any activity authorized by this PGP shall comply with Section 106 of the National Historic Preservation Act. Information on the location and existence of historic resources can be obtained from the Connecticut Historical Commission and the National Register of Historic Places. If the permittee, during construction of work authorized herein, encounters a previously unidentified archaeological or other cultural resource within the area subject to Corps jurisdiction that might be eligible for listing in the National Register of Historic Places, he/she shall immediately notify the District Engineer.

7. *National Lands.* Activities authorized by this PGP shall not impinge upon the value of any National Wildlife Refuge, National Forest, or any other area

administered by the U.S. Fish and Wildlife Service, U.S. Forest Service, or National Park Service.

8. *Endangered Species*. No activity is authorized under this PGP which may affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA); or which is likely to destroy or adversely modify the critical habitat of such species; or which would result in a "take" of any threatened or endangered species of fish or wildlife, or which would result in any other violation of Section 9 of the ESA protecting threatened or endangered species of plants. Applicants shall notify the Corps if any listed species or critical habitat is in the vicinity of the project and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and National Marine Fisheries Service (addresses attached, page 15).

9. *Wild and Scenic Rivers*. Any activity that occurs in a component of, or within 0.25 miles up or downstream of the main stem or tributaries of a river segment of, the National Wild and Scenic River System, must be reviewed by the Corps under the procedures of Category II of this PGP regardless if it meets the Category I size of impact thresholds. This condition applies to both designated wild and scenic rivers and rivers designated by Congress as study rivers for possible inclusion while such rivers are in an official study status. The Corps will consult with the National Park Service (NPS) with regard to potential impacts of the proposed activity on the resource values of the wild and scenic river. The culmination of this coordination will be a determination by the NPS and the Corps that the work: (1) may proceed as proposed; (2) may proceed with recommended conditions; or (3) could pose a direct and adverse effect on the resource values of the river, and an individual permit is required. If preapplication consultation between the applicant and the NPS has occurred whereby the NPS has made a determination that the proposed activity is appropriate for authorization under the PGP (with respect to wild and scenic river issues), this determination should be furnished to the Corps with submission of the application. The address of the NPS can be found on Page 15 of this PGP.

10. *Federal Navigation Project*. Any structure or work that extends closer to the horizontal limits of any Corps navigation project than a distance of three times the project's authorized depth (see attached map for locations of these projects) shall be subject to removal at the owner's expense prior to any future Corps dredging or the performance of periodic hydrographic surveys.

11. *Navigation*. There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein, and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein.

## MINIMIZATION OF ENVIRONMENTAL IMPACTS:

12. *Minimization.* Discharges of dredged or fill material into waters of the United States shall be avoided and minimized to the maximum extent practicable.

13. *Work in Wetlands.* Heavy equipment working in wetlands shall be avoided if possible. If such work is unavoidable, when site conditions are such that rutting, soil compaction, erosion or other disturbance would result, equipment shall be placed on mats or other measures taken (delay work until frozen or dry ground conditions exist) to minimize adverse effects to soil and vegetation. Disturbed areas in wetlands shall be restored to preconstruction contours and conditions upon completion of the work. In many cases the mats are considered a discharge of fill material and must be included in the quantification of impact area and authorized by this PGP.

14. *Temporary Fill.* Temporary fill in waters and wetlands authorized by this PGP (e.g. access roads, cofferdams) shall be properly stabilized during use to prevent erosion. In addition, temporary fill in tidal, navigable or inland waters of the US. should consist of a material that minimizes impacts to water quality (e.g. sandbags or clean, gravel and/or stone). Temporary fill in wetlands shall be placed on geotextile fabric, which is laid on the existing wetland grade. Temporary fills shall be disposed of at an upland site and suitably contained to prevent erosion and/or transport to a waterway or wetland. All areas of temporary fill shall be restored to their original elevations.

15. *Sedimentation and Erosion Control.* Adequate sedimentation and erosion control management measures, practices and devices, such as phased construction, vegetated filter strips, geotextile silt fences or other devices, shall be installed and properly maintained to reduce erosion and retain sediment on-site during and after construction. They shall be capable of preventing erosion, of collecting sediment, suspended and floating materials, and of filtering fine sediment. These devices shall be removed upon completion of work and the disturbed areas shall be stabilized. The sediment collected by these devices shall be removed and placed at an upland location, in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date.

16. *Waterway Crossings.* (a) All temporary and permanent crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed to withstand and to prevent the restriction of high flows, to maintain existing low flows, and so as not to obstruct the movement of aquatic life indigenous to the waterbody beyond the actual duration of construction. (b) No open trench excavation shall be allowed in flowing waters unless a special condition is added that precludes this as a result of a Category II screening meeting. (c) Temporary bridges, culverts, or cofferdams shall be used for equipment access across streams (note: areas of fill and/or cofferdams must be included in total waterway/wetlands impacts to determine applicability of this PGP). (d) For

projects that otherwise meet the terms of Category I, in-stream construction work shall be conducted during the low flow period July 15 - October 1 in any year; projects that are not to be conducted during that time period are ineligible for Category I and shall be screened pursuant to Category II, regardless of the waterway and wetland fill and/or impact area.

17. *Discharge of Pollutants.* All activities involving any discharge of pollutants into waters of the United States authorized under this PGP shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1251), and applicable state and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this PGP, the authorized work shall be modified to conform with these standards within 6 months of the effective date of such revision or modification, or within a longer period of time deemed reasonable by the District Engineer in consultation with the Regional Administrator of the Environmental Protection Agency. Applicants may presume that state water quality standards are met with issuance of the Section 401 Water Quality Certification (Applicable only to the Section 404 activity).

18. *Spawning Areas.* Discharges into known: a) fish and shellfish spawning or nursery areas; or b) amphibian and waterfowl breeding areas, during spawning or breeding seasons shall be avoided. Impacts to these areas shall be minimized to the maximum extent practicable during all other times of the year.

19. *Storage of Seasonal Structures.* Coastal structures such as pier sections, floats, etc., that are removed from the waterway for a portion of the year shall be stored in an upland location, located above mean high water and not in a vegetated wetland.

20. *Environmental Values.* The permittee shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner so as to maintain as much as is practicable, and to minimize any adverse impacts on, existing fish, and wildlife, and natural environmental values.

#### PROCEDURAL CONDITIONS:

21. *Inspections.* The permittee shall permit the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with the terms and conditions of this PGP. The District Engineer may also require post-construction engineering drawings for completed work, and post-dredging survey drawings for any dredging work.

22. *Maintenance.* The permittee shall maintain the work or structures authorized herein in good condition, including maintenance to ensure public

safety. Note that this does not include maintenance of dredging projects. Maintenance dredging is subject to the review thresholds described on the attached DEFINITION OF CATEGORIES sheets and/or any conditions included in a written Corps authorization.

23. *Property Rights.* This PGP does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of federal, state, or local laws or regulations.

24. *Modification, Suspension, and Revocation.* This PGP may be either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 CFR 325.7; any such action shall not be the basis for any claim for damages against the United States.

25. *Restoration.* The permittee, upon receipt of a notice of revocation of authorization under this PGP, shall restore the wetland or waterway to its former conditions without expense to the United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

26. *Special Conditions.* The Corps may impose other special conditions on a project authorized pursuant to this PGP that are determined necessary to minimize adverse environmental effects or based on any other factor of the public interest. These may be based on concerns from CT DEP or Federal resource agency. Failure to comply with all conditions of the authorization, including special conditions, will constitute a permit violation and may subject the permittee to criminal, civil, or administrative penalties or restoration.

27. *False or Incomplete Information.* If the Corps makes a determination regarding the eligibility of a project under this PGP, and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the permit shall not be valid and the U.S. government may institute appropriate legal proceedings.

28. *Abandonment.* If the permittee decides to abandon the activity authorized under this PGP, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of the District Engineer.

29. *Enforcement cases.* This PGP does not apply to any existing or proposed activity in Corps jurisdiction associated with a Corps of Engineers or EPA enforcement action, until such time as the enforcement action is resolved or the Corps determines that the activity may proceed independently without compromising the enforcement action.



30. *Duration of Authorization.* This PGP authorization expires on May 15, 2001. Category I activities authorized under this PGP that have commenced; (i.e., are under construction) or are under contract to commence will remain authorized provided the activity is completed within twelve months of May 15, 2001. Category II activities authorized under this PGP are valid as specified in the PGP authorization letter unless: a. the PGP is either modified or revoked, or b. discretionary authority has been exercised in accordance with 33 CFR 325.2(e)(2). Activities completed under this PGP will continue to be authorized by the PGP after the expiration date.

31. *Previously Authorized Activities.*

- a) Projects that have received written authorization from the Corps prior to issuance of this PGP, either under the previous Connecticut SPGP, or Nationwide permits, shall remain authorized as specified in each authorization.
- b) Non-reporting nationwide permit activities which have commenced, (i.e., are under construction or are under contract to commence) prior to the issuance date of this PGP remain authorized provided the activity is completed within twelve months of the date of issuance of this PGP. These activities are still subject to discretionary authority on a case-by-case basis in accordance with Condition 4. The applicant must be able to document to the Corps satisfaction that the project was under construction or contract by the appropriate date.
- c) Activities authorized pursuant to 33 CFR Part 330.3 (activities occurring before certain dates) are not affected by this PGP.

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**DISTRICT ENGINEER**

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**DATE**

## **CONTACTS FOR CONNECTICUT PROGRAMMATIC GENERAL PERMIT:**

### **U.S. Army Corps of Engineers**

New England District, Regulatory Branch  
696 Virginia Road  
Concord, Massachusetts 01742-2751  
(800) 343-4789 or (978) 318-8335  
Fax # (978) 318-8303

### **National Park Service**

National Park Service  
North Atlantic Region  
15 State Street  
Boston, Massachusetts 02109  
(617) 223-5203

### **Federal Endangered Species:**

U.S. Fish and Wildlife Service  
P.O. Box 307  
Charlestown, Rhode Island 02813  
(401) 364-9124

National Marine Fisheries Service  
Habitat Division  
212 Rogers Avenue  
Milford, Connecticut 06460  
(203) 579-7094

### **State Endangered Species:**

Dept. of Environmental Protection Bureau  
of Environmental Services Natural  
Resources Center  
Natural Diversity Data Base 79 Elm Street  
Hartford, Connecticut 06106-5127  
(860) 566-3005

### **Archaeological Information**

State Historic Preservation Officer  
Connecticut Historical Commission  
59 South Prospect Street  
Hartford, Connecticut 06106  
(860) 566-3005

### **Connecticut Department of Environmental Protection**

Department of Environmental Protection  
Office of Long Island Sound Programs  
79 Elm Street  
Hartford, Connecticut 06106-5127  
(860) 424-3034

Department of Environmental Protection  
Bureau of Water Management  
Inland Water Resources Division  
79 Elm Street  
Hartford, Connecticut 06106-5127  
(860) 424-3019

*Listed Wild and Scenic River in Connecticut:*

#### **National Wild/Scenic Rivers System (Designated River in Connecticut):**

**FARMINGTON RIVER - The 14-mile segment of the West Branch and main stem extending from immediately below the Goodwin Dam and Hydroelectric Project in Hartland, Connecticut, to the downstream end of the New Hartford-Canton, Connecticut, town line.**

# DEFINITION OF CATEGORIES

SHEET 1/3

	CATEGORY I	CATEGORY II	INDIVIDUAL PERMIT
<b>A. INLAND WATERS AND WETLANDS (WATERS OF THE US) (1)</b>	Activities must be regulated by the CT DEP or CT inland wetlands agencies with the exception of lands on Indian Reservations (a)		
(a) NEW FILL/ EXCAVATION DISCHARGES. (Secondary impacts include areas drained, flooded or cleared)	Less than 5,000 s.f. inland waterway and/ or wetland fill & secondary impacts. Impact area includes all temporary & permanent fill & excavation discharges. Unconfined in-stream work (cofferdam structures/ fills included) is limited to July 1 - Sept. 30  Dams, dikes or water diversion fills must be screened in Cat. II.	5,000 s.f. to 1 acre (c,d) inland waterway and/ or wetland fill and secondary impacts. Includes all temporary & permanent fill and excavation discharges. Time of year restrictions determined case-by-case.	Greater than 1 acre (c,d) inland waterway and/ or wetland fill and secondary impacts. Includes temporary & permanent fill and excavation discharges.
(b) BANK STABILIZATION PROJECTS	Inland bank stabilization less than 500 ft. in length and less than an average of 1 c.y. fill per linear foot below ordinary high water, provided no wetland fill.	Stabilization exceeding Category 1.	
(c) REPAIR & MAINTENANCE OF AUTHORIZED FILLS	Repair/ maintenance of existing, currently serviceable, authorized fills with no expansion or change in use.	Replacement of non-serviceable fills, or repair/ maintenance of serviceable fills, with expansion of any amount up to 1 acre, or change in use.	Replacement of non-serviceable fills, or repair/ maintenance of serviceable fills, greater than 1 acre expansion.
<b>B. TIDAL WATERS AND NAVIGABLE WATERS (2) (includes all of CT River)</b>			
(a) FILL		Up to 1 acre (d) waterway/ wetland fill and secondary impacts (e.g. areas drained/ flooded/ cleared). Includes all temporary & permanent waterway fill. Temporary salt marsh impacts up to 1 acre. NO PERMANENT salt marsh, mud flat or veg. shallow fill.	Greater than 1 acre (d) waterway fill and secondary impacts (e.g., areas drained/ flooded/ cleared). Includes all temporary & permanent waterway fill. Temporary salt marsh fill & excavation discharge over 1 acre. Permanent salt marsh fill, any amount.

# DEFINITION OF CATEGORIES

SHEET 2/3

	CATEGORY I	CATEGORY II	INDIVIDUAL PERMIT
<b>(b) REPAIR AND MAINTENANCE WORK</b>	Repair/maintenance of existing currently serviceable, authorized fills and structures with no expansion or change in use.	Repair of any non-serviceable structures or fills, or repair/maintenance of serviceable structures or fills, with expansion up to 1 acre, or change in use. NO PERMANENT salt marsh, mud flat or veg. shallow fill.	Replacement of non-serviceable structures or fills, or repair & maintenance of serviceable fills, greater than 1 acre.
<b>(c) DREDGING</b>	Maintenance dredging less than 1,000 c.y. with upland disposal; proper siltation controls used; limited to work between Nov 1-Jan 15. (b)	Maintenance dredging greater than 1,000 cy., new dredging up to 10,000 cy., or projects that do not meet Cat. I. Upland, open water disposal or beach nourish (above mean high water), allowed provided mat'l is determined suitable by the Corps	Maintenance dredging (any amount) in or affecting special aquatic site. New dredging greater than 10,000 c.y. or any amount in or affecting special aquatic site, or with open water disposal. (3)
<b>(d) MOORINGS</b>	Private, non-commercial, non-rental single boat moorings not associated with any boating facility, provided not located in Federal Navigation Project, and no interference with navigation. (4)	Moorings that do not meet the terms of Category I and moorings that meet the terms of Category I that are located within a Federal anchorage.	Moorings within the horizontal limits, or with moored vessels that extend within the limits, of Corps Federal navigation projects, except those in Federal anchorages under Category II.
<b>(e) PILE-SUPPORTED STRUCTURES AND FLOATS</b>	<p>1. Reconfiguration of existing authorized docks provided floats supported off substrate at low tide. No dredging, additional slips or expansion allowed.</p> <p>2. Construction of private residential docks that extend no further waterward of MHW to a depth of -4 feet, or 40 feet whichever is less. In both cases above, no docks/floats shall be located over submerged aquatic vegetation, or over tidal wetlands.</p>	Private piers and floats for navigational access to waterway other than those docks as described in Category I .	Structures/piers/floats that extend, or with docked/ moored vessels that extend, within horizontal limits of Fed. Navigation Project. Structures, including piers/floats, associated with a new or previously unauthorized boating facility. (4)

# DEFINITION OF CATEGORIES

SHEET 3/3

	CATEGORY I	CATEGORY II	INDIVIDUAL PERMIT
(f) MISCELLANEOUS	Temporary buoys, markers, floats, etc. for recreational use during specific events, provided they are removed within 30 days after use discontinued.	Structures/work in/ affecting tidal/ navigable waters that are not defined under any of the previous headings. Includes, but not limited to: utility lines, aerial transmission lines, pipelines, outfalls, boat ramps, bridge fills/ abutments, etc.	EIS required by the Corps. Activities within the horizontal limits of Corps Federal navigation projects, or with docked or moored vessels that extend within those limits. Does not include utility lines; aerial & subsurface crossings fall into Cat. II.
MISC. CONT.	Coast Guard approved aids to navigation. Oil spill clean-up. Temporary structures/ fill. Fish/ wildlife harvesting structures/ fill (As defined by 33 CFR 330, App A-4).		
MISC. CONT.	Scientific measurement devices and survey activities, such as exploratory drilling, surveying/ sampling. Does not include oil/ gas exploration and fills for roads/ construction pads.		

## FOOTNOTES:

### Definitions

- Waters of the U.S. in inland areas:** Inland rivers, streams, lakes, ponds and wetlands.  
[Refer to Title 33 CFR 328.4(c).]
- Navigable Waters:** Waters that are subject to the ebb and flow of the tide and Federally designated navigable waters which, in Connecticut, include the Connecticut River to the Massachusetts state line. [Refer to Title 33 CFR Part 329.]
- Special Aquatic Sites:** Include wetlands (inland and salt marsh), mud flats, vegetated shallows (permanently inundated areas that support rooted aquatic vegetation such as eel grass), coral reefs, and riffle and pool complexes [Refer to 40 CFR Part 230 Subpart E].
- Boating facilities:** Facilities that provide, rent, or sell mooring space, such as marinas, yacht clubs, boat yards, town facilities, dockominiums, etc.

### Exclusions

- (a) Category I does not apply to projects occurring in a component of, or within 0.25 mile up or downstream of the main stem of tributaries of a river segment of, the National Wild and Scenic River System.
- (b) Projects located on the main stem of the CT River must be screened under Category II.
- (c) Projects involving widenings, expansions and enhancement that impact between 1-3 acres of degraded or low value wetlands that have been assessed as such by either CT DEP or COE personnel, may be approved under Category II, subject to the Federal screening.
- (d) The 1 Acre limit does not apply to wetland restoration projects provided that impacts to the aquatic resources are minimal and there is a preplanning component to the project that includes review and representation from all federal and state agencies on the screening committee.